

#### **401 KAR 50:045. Performance tests.**

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
Bureau of Environmental Protection  
Division of Air Pollution

Relates to: KRS Chapter 224

Pursuant to: KRS 13.082, 224.033

Necessity and Function: KRS 224.033 requires the Cabinet for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation establishes requirements for performance tests.

**Section 1.** The cabinet may require the owner or operator of any affected facility to sample emissions in accordance with such methods as the cabinet shall prescribe. All tests shall be made under the direction of persons qualified by training and/or experience in the field of air pollution.

**Section 2.** The cabinet may conduct tests of emissions of air contaminants from any source.

#### **Section 3. Test methods and exceptions.**

- (1) Performance tests required hereunder or by any other regulation of the Division of Air Pollution for affected facilities which are subject to a standard of performance promulgated under 40 CFR 60 or 40 CFR 61, filed by reference in 401 KAR 50:015, shall be conducted, and data shall be reduced, in accordance with the reference methods and procedures contained in each applicable regulation unless:
  - (a) The cabinet specifies or approves the use of a reference method with minor changes in methodology;
  - (b) The cabinet and the U.S. Environmental Protection Agency approve the use of an equivalent method;
  - (c) The cabinet and the U.S. Environmental Protection Agency approve the use of an alternative method the results of which it has determined to be adequate for indicating whether a specific source is in compliance; or
  - (d) The cabinet and the U.S. Environmental Protection Agency waive the requirement for performance test for affected facilities for which a standard of performance has been promulgated under 40 CFR 60 or 40 CFR 61 because the owner or operator of such affected facility has demonstrated to the cabinet's and the U.S. Environmental Protection Agency's satisfaction that the affected facility is in compliance with the applicable standard.
- (2) Performance tests required hereunder or by any other regulation of the division of Air Pollution for affected facilities which are not subject to a standard of performance promulgated under 40 CFR 60 or 40 CFR 61 shall be conducted, and data shall be reduced, in accordance with the methods and procedures contained in each applicable regulation unless:
  - (a) the cabinet specifies or approves minor changes in methodology;
  - (b) the cabinet specifies or approves the use of some other method the results of which it has determined to be adequate for indicating whether a specific source is in compliance; or
  - (c) The cabinet waives the requirement for performance tests because

the owner or operator of the affected facility has demonstrated to the cabinet's satisfaction that:

1. The affected facility is in compliance with the applicable standard; or
2. In the case of an existing affected facility, the test cannot be performed by a source due to physical plant limitations or extreme economic burden. The burden of proof for an alleged "economic burden" is to be borne by the source.

**Section 4.** The owner or operator shall permit the cabinet to conduct performance tests at any reasonable time, shall cause the affected facility to be operated for purposes of such tests under such conditions as the cabinet may specify based on representative performance of the affected facility, and shall make available to the cabinet such records as may be necessary to determine such performance.

**Section 5.** The owner or operator of an affected facility shall provide the cabinet ten (10) working days prior notice of the performance test to afford the cabinet the opportunity to have an observer present.

**Section 6.** The owner or operator of an affected facility shall provide, or cause to be provided, performance testing facilities as follows:

- (1) Sampling ports adequate for test methods applicable to such facility;
- (2) safe sampling platform(s).
- (3) safe access to sampling platform(s).
- (4) Utilities for sampling and testing equipment.

**Section 7.** Each performance test shall consist of three (3) separate runs using the applicable test method. Each run shall be conducted for such time and under such conditions specified in the applicable regulation. For the purpose of determining compliance with an applicable standard, the arithmetic mean of the results of the three (3) runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one (1) of the three (3) runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the owner or operator's control, compliance may, upon the cabinet's approval, be determined using the arithmetic mean of the results of the two (2) other runs.

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